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OF COUNSEL
 CHARLES P. MULDOON

AREA CODE 202
 638-6565

June 22, 1967

Lawrence R. Houston, Esq.
 General Counsel
 Central Intelligence Agency
 Washington, D. C.

E. Barrett Prettyman, Jr., Esq.
 Hogan & Hartson
 815 Connecticut Avenue
 Washington, D. C. 20006

Re: Heine v. Raus

Gentlemen:

I am enclosing to each of you a copy of a Comment concerning our case which is to be found in 67 Col.L.Rev. 752 (Apr. 1967).

Very truly yours,

Paul R. Connolly

PRC:vsa
 Enclosure

STAT

Approved For Release 2005/01/27 : CIA-RDP75-00770R000100070002-5

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Clerk's Office

United States Court of Appeals

For the Fourth Circuit

MAURICE S. DEAN
CLERK

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RICHMOND, VIRGINIA 23219

March 2, 1967

Mr. Ernest C. Raskauskas
Mr. Robert J. Stanford
1825 K Street, N. W.
Washington, D. C. 20006
Mr. E. Barrett Prettyman, Jr.
815 Connecticut Avenue
Washington, D. C. 20006
Mr. Paul R. Connolly
1000 Hill Building
Washington, D. C. 20006

No. 11,195, Erik Heine, v.
Juri Raus.

Gentlemen:

I enclose certified copy of order this day filed extending the time for the filing of the briefs and appendices for the respective parties in the above-entitled case.

Very truly yours,

Maurice S. Dean,
Clerk

ab

Enclosure:

FOR THE FOURTH CIRCUIT

No. 11,195.

Eerik Heine,

Appellant,

vs.

Juri Raus,

Appellee.

Appeal from the United States District Court for the
District of Maryland, at Baltimore.
- - - - -

Upon consideration of the motion of the
appellant, by his counsel, and for cause shown,

It is ordered that the time for the filing
of the appellant's brief and appendix be, and it is
hereby, extended to and including March 20, 1967.

Further ordered that the time for the filing
of the appellee's brief and appendix be, and it is
hereby, extended to and including April 19, 1967.

FILED

CLEMENT F. HAYNSWORTH, JR.
Chief Judge, Fourth Circuit.

MAR -2 1967

MAURICE S. DEAN
CLERK

A true copy,

T e s t e :

, Clerk,
U. S. Court of Appeals for the
Fourth Circuit

February 28, 1967

Libel and Slander

PRIVILEGE

Defense contract's requirement that contractor report actual or even suspected compromises of classified information bars suit by employees alleging that they were libeled by confidential report to government concerning possible breach of security, since contractor is clothed with government's absolute immunity.

[Text] "To be predominantly emphasized here is that the contract embraces reports by Philco to the government not only of actual but of each suspected compromise of classified information. Equally important, the company has no discretion and is mandatorily ordered to report the suspicion immediately. There is no question but that the system of reporting was valid. The obligation could scarcely be couched in more imperious or exacting language. It embraces both true and false accusations, both substantial and insubstantial suggestions, perhaps encompassing even rumors. It demands investigation of them by the company and a report of it to the Defense Department. That is precisely what Philco did. Faithful to the contract, it could have done no less. The issue, then, is whether in the circumstances Philco may be held answerable for falsity and defamation in the report.

"For its absolute privilege Philco analogizes its position with that of an executive agency of the government.

"The logic of [the Barr v. Matteo, 360 U.S. 564] thesis, we think endues Philco with the attributes of a federal agency in the problem of this controversy. Indisputably, the government by the contract bared and confided State secrets to Philco. ***

So it was that the company and such of its employees as were confidants were answerable for keeping the nation's secrets, as fully as if they were governed by the oath of a federal official. Closely performing his duties and charged with equal responsibility and loyalty, we think the company and its trusted personnel were imbued with the official's character, and partake of his immunity to liability, whenever and wherever he would enjoy the absolute privilege.

"The further question is whether a federal agency or employee would in the position of Philco and its trusted employees be accorded the unqualified privilege. In this determination we do not encounter the difficult resolutions—particularly the scope of the libeler's duty, and the medium used, to issue the sullyng statements—which confronted the Court in Barr v. Matteo. * Approved For Release 2005/01/27 : CIA-RDP75-00770R000100070002-5

These are absent here for, as we

2-28-67

have seen, no doubt existed of the right of Philco to make the communication. It was mandatory, and immediately within the province of Philco's functions. Again, here no open publication of the alleged libel was made, but only a confidential transmittal within the internal operations of the government. These considerations would excuse a Federal agency or employee. ***

"Our decision only determines that an action for libel will not lie in the circumstances against a private party fulfilling its governmentally imposed duty to inform. Presumably to correct injustice incident to the exaction of this duty, *** administrative proceedings *** were provided."—Bryan, J.

—CA 4; Becker v. Philco Corp.,
2/6/67.

2-28-67

35 LW 2499

February 28, 1967

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